EXHIBIT 13
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HB 203

Testimony on HB 203, Natural Resources Committee
Submitted by Polly R. Rex, P.O. Box 68, Absarokee, MT 59001
Wed., Jan. 24, 2007
Hearing Rm. 472, 3 PM

Mr. Chairman and Members of the Committee:

My name is Polly Rex and I am a rancher and petitioner in the Horse Creek Temporary Controlled Groundwater Area (CGA). In Sept., 2001 residents of the Horse Creek area, three miles southwest of Absarokee, filed a CGA petition with DNRC. We took this action because a five lot minor subdivision had been approved adjacent to our ranches and we knew Phase II by the same developer was in the planning process. By the time we had our CGA hearing in the fall of 2003, the developer had received final approval on a total of 65 lots.

During the subdivision's planning process, Horse Creek residents attended countless planning board meetings, commissioner's meetings and public hearings; we spoke with numerous officials at the county and state level, all the while thinking that a groundwater study would be conducted that looked at impacts on us, the surrounding water users. After all, we reasoned, we have senior water rights. Surely, these water rights will be protected.

To be fair, Stillwater County did require that the subdivision developer do a "groundwater study." It was conducted by a paid consultant to the developer. DEQ did require a second pump test. It was run for 24 hours and did not monitor drawdown in adjacent wells. It wasn't until we hired our own hydrogeologist that we learned how bleak our situation might really be. This is when we decided to petition DNRC for a controlled groundwater area. It was very clear to us that in order to "know" that we'll have water in the future, we would be required to conduct our own groundwater study.

I think we asked so many questions at our CGA hearing that the DNRC hearing's examiner felt obligated to grant us a temporary CGA. Although not perfect, our hearing lasted one day; we did not have legal representation (the developer did have an attorney at the hearing); our hearing was straightforward, civilized and stuck to the "science" of the case. When we got word of the Smith Valley CGA hearing last summer, we could hardly believe it. Rulemaking, as we understand it, was implemented—the hearing's process was extremely contentious and seemed to undermine its very purpose—to determine if there is a need for further groundwater study in the Smith Valley area. Now the Smith Valley petitioners are left to wonder what went wrong and if they'll ever get answers to their groundwater questions. And believe me, the Smith Valley petitioners have some questions. People don't throw themselves on the rocks like those people did just for no reason.

In our opinion, HB 203 doesn't improve the CGA process. Rulemaking adds another level of administration and expense every time new "rules" are introduced. CGA petitioners are already burdened with huge out of pocket expense and frustration and are the wrong people to heap more rules and regulations upon. We are not the enemy. If anything needs to change, it's at the other end, with rules and regulations on people who plan to make big bucks at the expense of all of the rest of us.

We have another year of study remaining on our temporary CGA designation. Although we rarely hear from DNRC, we feel we have a strong case for some type of corrective measure(s) regarding groundwater use in our CGA. That said, we have no clear picture of where the CGA process will ultimately take us or at what cost, in terms of dollars or enforcement.